



**ARIZONA STATE SENATE**  
*Fifty-Sixth Legislature, First Regular Session*

**VETOED**

**AMENDED**

FACT SHEET FOR H.B. 2623

appropriation; Mohave county substations  
(NOW: unclaimed property; information; registration)

Purpose

Outlines requirements for a locator to register with the Arizona Department of Revenue (ADOR) to provide recovery services to the apparent owner of unclaimed property. Establishes the Locator Registration Fund (Fund) consisting of monies received from locator registration and renewal fees.

Background

ADOR's Unclaimed Property Program seeks to efficiently and effectively collect, safeguard and distribute unclaimed property to property owners by: 1) sending notices to potential property owners; 2) featuring claimant information through a search function on ADOR's website; 3) advertising in Arizona media; and 4) working with other state agencies in Arizona and nationally to track unclaimed property owners ([ADOR](#)).

An agreement entered into by an owner with another person for the primary purpose of locating, delivering, recovering or assisting in the recovery of unclaimed property (agreement) is enforceable if the agreement: 1) is in writing; 2) clearly states the nature of the property and the services to be performed; 3) is signed by the apparent owner; and 4) states the value of the property before and after a fee or other compensation has been deducted. An agreed upon fee or payment may not be more than 30 percent of the value of the recoverable unclaimed property. An agreement is unenforceable if it provides for compensation of more than 30 percent of the value of the unclaimed property, except by the owner.

An owner who has agreed to pay compensation of more than 30 percent of the value of the recoverable unclaimed property, or ADOR on behalf of the owner, may maintain an action to reduce the compensation. A court may award reasonable attorney fees to an owner who prevails in the action. A provision in an agreement is void and unenforceable if it requires an owner to pay compensation that includes a portion of the underlying minerals or mineral proceeds that are not presumed abandoned ([A.R.S. § 44-327](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

***Agreements to Recover Property***

1. Allows a claimant, rather than an owner, to enter into an agreement to recover property and applies the associated authorizations and requirements to a claimant.
2. Modifies the information required for an agreement to recover property that is entered into with another person by a claimant by including the following, in at least 10-point type:
  - a) the unclaimed property account numbers being claimed;
  - b) the services to be performed; and
  - c) the signature of the claimant.
3. Removes the specification that an agreement to recover property is void and unenforceable if the agreement was entered into during the period commencing on the date the property was presumed abandoned and extending until 24 months after the property is paid or delivered to ADOR.
4. Specifies that the agreed upon fee or payment in an agreement to recover property does not apply to recovery of accounts that require judicial determination of ownership to establish entitlement.

***Locator Registration***

5. Requires, to acquire a valid four-year registration, a locator to register with ADOR in a form and manner determined by ADOR and pay a registration fee determined by the Director of ADOA (Director).
6. Requires a locator applicant, on the registration application, to provide the:
  - a) applicant's primary business address and telephone number; and
  - b) name, telephone number and email address of the individual who will be the primary point of contact with ADOR.
7. Determines that a locator is ineligible for registration if, in the last 10 years, the locator was convicted of a felony involving dishonesty, deceit, fraud or a breach of fiduciary duty.
8. Allows a locator to renew the locator's registration by submitting an ADOR-prescribed renewal application and Director-determined renewal fee.
9. Prohibits a locator that receives unclaimed property account information from ADOR from distributing that information to other locators or persons, other than the owner, for compensation.
10. Requires ADOR, if an owner has entered into a written agreement that authorizes a registered locator to claim unclaimed property on the owner's behalf or if the owner has sold the right to claim unclaimed property to a locator, to distribute the property or monies in accordance with the written agreement.

11. Requires the owner to execute the agreement, and the locator to file the agreement, with ADOR when a locator files a claim on the owner's behalf.

***Locator Registration Fund***

12. Establishes the Fund, administered by ADOR, consisting of monies received from locator registration and renewal fees that ADOR must deposit in the Fund.

13. Requires Fund monies to be used to monitor locators and specifies that Fund monies are continuously appropriated.

***Unclaimed Property Account Information***

14. Requires ADOR, on written request, to provide all unclaimed property account information for all unclaimed accounts to a registered locator in a searchable electronic or digital format.

15. Requires the unclaimed property account information to include:

- a) the name and, as reported by the holder, the complete last known address of the apparent owner;
- b) the relationship code, if any;
- c) the type and cash value of the property;
- d) if the property is securities or mutual fund shares, the number of shares or items and the exchange ticker symbol or fund name, if reported;
- e) the year that the property was reported to ADOR;
- f) the name and contact information of the holder;
- g) a general description of the safe deposit box contents and the liquidation amount, if applicable; and
- h) the last contact date with the apparent owner.

***Miscellaneous***

16. Expands the parties to which ADOR may disclose confidential information to include a registered locator.

17. Stipulates that, when a property locator initially communicates with a potential customer, the property locator must disclose that the fee any property locator charges is a negotiable rate and is capped at 20 percent.

18. Requires an agreement between a property locator and customer to include a signed disclosure agreement in the agreement's own document without anything else on the document.

19. Classifies *disclosing confidential information* as a Class 1 Misdemeanor and *knowingly disclosing confidential information* as a Class 5 Felony.

20. Declares that the Legislature intends the initial registration fee and the renewal fee for a locator to not exceed \$100 for each registration and for each renewal.

21. Makes technical and conforming changes.

22. Becomes effective on the general effective date.

Amendments Adopted by Committee

- Adopted the strike-everything amendment.

Amendments Adopted by Committee of the Whole

1. Reduces, from thirty percent to twenty percent of the value of the recoverable property reported to the ADOR, the maximum fee for an enforceable agreement to recover property.
2. Requires ADOR to provide all unclaimed property account information for all unclaimed accounts to a registered locator, rather than only to registered locators.
3. Removes ADOR's ability to charge a fee for each request in an amount to be determined by the Director of ADOR.
4. Stipulates that, when a property locator initially communicates with a potential customer, the property locator must disclose that the fee any property locator charges is negotiable rate and is capped at 20 percent.
5. Requires an agreement between a property locator and customer to include a signed disclosure agreement in the agreement's own document without anything else on the document.
6. Classifies *disclosing confidential information* as a Class 1 Misdemeanor and *knowingly disclosing confidential information* as a Class 5 Felony.
7. Outlines the required description and statement of the disclosure agreement.
8. Reinserts the current statute definition of *confidential information*.
9. Adds a legislative intent clause.
10. Makes technical and conforming changes.

Governor's Veto Message

The Governor indicates in her [veto message](#) that H.B. 2623 directs ADOR to provide sensitive taxpayer information to third parties, which is an abuse and misuse of public records.

House Action

TI	2/15/23	DP	10-0-0-1
APPROP	2/20/23	DP	12-2-0-1
3 <sup>rd</sup> Read	3/8/23		47-11-2

Senate Action

TAT	3/27/23	DP	5-1-1
APPROP	4/4/23	DPA/SE	6-4-0

Vetoed by the Governor 6/19/23

Prepared by Senate Research

June 20, 2023

LMM/sr